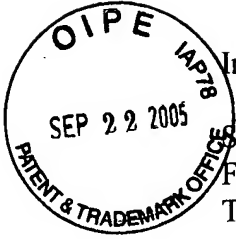


AF
IHW



In re Application of:
William Pat Price
Serial No.: 10/066,207
Filed: 01/31/2002

Group Art Unit: 3629
Examiner: Borissov, Igor N.

Title: SYSTEM AND METHOD FOR ENSURING
PRESENTATION OF EMBEDDED RICH
MEDIA ACROSS STATION BOUNDARIES

RESPONSE TO NOTIFICATION OF NON-COMPLIANT APPEAL BRIEF

THE COMMISSIONER FOR PATENTS
ALEXANDRIA, VA 22313

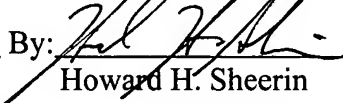
Dear Sir,

A notification of non-compliant appeal brief was mailed on 09/02/05 for failing to provide an Evidence Appendix and a Related Proceedings Appendix. The applicant submits herewith a new appeal brief, including the required appendixes.

CONCLUSION

The examiner is encouraged to contact the undersigned over the telephone in order to resolve any remaining issues that may prevent the immediate allowance of the present application.

Respectfully submitted,

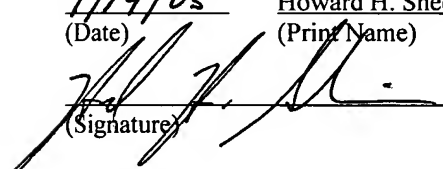
Date: 9/19/05 By: 
Howard H. Sheerin
Reg. No. 37,938
Tel. No. (303) 765-1689

CERTIFICATE OF MAILING

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to: Commissioner of Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on:

9/19/05
(Date)

Howard H. Sheerin
(Print Name)


(Signature)

Inventor Application of:

William Pat Price

Serial No.: 10/066,207

Filed: 01/31/2002

Title: SYSTEM AND METHOD FOR ENSURING
PRESENTATION OF EMBEDDED RICH
MEDIA ACROSS STATION BOUNDARIES

Group Art Unit: 3629

Examiner: Borissov, Igor N.

BRIEF ON APPEAL

THE COMMISSIONER FOR PATENTS
ALEXANDRIA, VA 22313

Sir,

The following appeal brief is submitted pursuant to a Notice of Appeal filed 06/07/05 for the above-identified application.

REAL PARTY IN INTEREST

The real party in interest for the above-identified patent application is Western Digital Technologies, Inc. (see assignment REEL/FRAME: 012610/0932 identifying Western Digital Technologies, Inc. as assignee of the entire right, title and interest of the above-identified patent application).

RELATED APPEALS AND INTERFERENCES

There are no known appeals or interferences related to the instant appeal.

STATUS OF CLAIMS

Claims 1, 3, 4 and 6-30 are pending.

Claims 2 and 5 have been canceled.

Claims 1, 3, 4 and 6-30 stand rejected under 35 USC §103(a).

STATUS OF AMENDMENTS

There are no outstanding amendments.

SUMMARY OF CLAIMED SUBJECT MATTER

FIGs. 1 and 2 show a method of saving alternative presentation data comprising the steps of:

(step 100) receiving a broadcast stream on a selected channel, the broadcast stream comprising a plurality of programming media segments and at least one rich media segment associated with the alternative presentation data, the at least one rich media segment and the associated alternative presentation data being embedded within the plurality of programming media segments;

(step 102) commencing presenting the at least one rich media segment on the selected channel;

(steps 104,106) saving the alternative presentation data associated with the at least one rich media segment if presenting the at least one rich media segment on the selected channel is interrupted prior to completely presenting the at least one rich media segment on the selected channel; and

(page 7, lines 3-4) presenting the saved alternative presentation data associated with the rich media segment for a time period equivalent to an initial length of time for a presentation of the at least one rich media segment less a length of time that the at least one rich media segment has previously been presented.

ISSUES

- I. Whether claims 1, 3, 4 and 6-30 are patentable under 35 USC §103(a) over Plotnick et al. (US 2002/0144262) in view of Bryant et al. (US 5,652,615).

GROUPING OF CLAIMS

Claims 1, 3, 4 and 6-30 stand rejected and are grouped together for the purpose of this appeal.

THE REFERENCES

The following references are relied upon by the examiner:

Plotnick et al.	2002/0144262	October 3, 2002
Bryant et al.	5,652,615	July 29, 1997

THE REJECTIONS

Claims 1, 3, 4 and 6-30 stand rejected under 35 USC §103(a) as unpatentable over Plotnick in view of Bryant.

Regarding claims 1, 21 and 26, the examiner asserts Plotnick discloses to:

[0060]-[0063] receive a broadcast stream on a selected channel, the broadcast stream comprising a plurality of programming media segments and at least one rich media segment associated with the alternative presentation data, the at least one rich media segment and the associated alternative presentation data being embedded within the plurality of programming media segments;

[0060]-[0063] commence presenting the at least one rich media segment on the selected channel;

[0060]-[0063] saving the alternative presentation data associated with the at least one rich media segment if presenting the at least one rich media segment on the selected channel is interrupted prior to completely presenting the at least one rich media segment on the selected channel; and

[0060]-[0063] displaying the saved alternative presentation data associated with the rich media segment if presenting the at least one rich media segment on the selected channel is

interrupted prior to completely presenting the at least one rich media segment on the selected channel.

The examiner concedes that Plotnick does not disclose that the alternative presentation data is presented for a time period equivalent to an initial length of time for a presentation of the at least one rich media segment less a length of time that the at least one rich media segment has previously been presented. The examiner asserts that FIG. 8 and associated description disclosed by Bryant teaches this limitation.

The examiner asserts that Plotnick discloses the additional limitations recited in the dependent claims.

ARGUMENT

I. THE ISSUE UNDER 35 U.S.C. §103(a) – PLOTNICK IN VIEW OF BRYANT

- A. The rejection should be reversed because Bryant does not disclose or suggest that the alternative presentation data is presented for a time period equivalent to an initial length of time for a presentation of the at least one rich media segment less a length of time that the at least one rich media segment has previously been presented.

The rejection of claims 1, 21, and 26 should be reversed because the examiner has incorrectly construed Bryant. Although Bryant discloses a broadcast system that broadcasts a plurality of programming media segments (program base segments 813 in FIG. 8) and a rich media segment (fill segment 812), Bryant does not disclose or suggest to display the entire fill segment 812 in the event the channel is interrupted. That is, Bryant does not disclose or suggest to display the fill segment 812 for a time period equivalent to an initial length of time for a presentation of the fill segment 812 less a length of time that the fill segment 812 has previously been presented.

Bryant shows in FIG. 8 a method for a cable operator (CO) 820 to generate alternate fill segments 812 (C or D) and a mechanism for selecting between the alternate fill segments (C or D) to be displayed on a TV, such as a set top box (STB) 833 selecting fill segment D to be displayed on the TV as shown in FIG. 8. However, if the STB 833 selects fill segment D for

display, and the user changes the channel on the TV, nothing in Bryant discloses or suggests to display the remainder of fill segment D either immediately, or at a later time. In Bryant, if the user changes the channel on the TV, the alternate fill segments would change relative to the newly selected channel (the remainder of fill segment D would not be displayed). That Bryant discloses to synchronize the fill segments to a common time base has nothing to do with the continued display of a fill segment (immediate or delayed) in the event the current channel is interrupted (e.g., when the channel is changed). The rejection should be withdrawn.

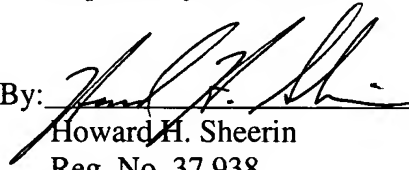
The rejections of the remaining claims should be withdrawn for at least the reasons set forth above.

CONCLUSION

Reversal of the rejections in this appeal is respectfully requested.

To the extent necessary, a petition for an extension of time under 37 C.F.R. 1.136 is hereby made. Please charge any shortage in fees due in connection with the filing of this paper, including extension of time fees, to Deposit Account No. 23-1209, and please credit any excess fees to such deposit account.

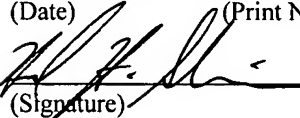
Respectfully submitted,

Date: 9/19/05 By: 
Howard H. Sheerin
Reg. No. 37,938
Tel. No. (303) 765-1689

CERTIFICATE OF MAILING

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to: Commissioner of Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on:

9/19/05 Howard H. Sheerin
(Date) (Print Name)


(Signature)

CLAIMS APPENDIX

A complete listing of the claims on appeal:

1. A method for saving alternative presentation data, the method comprising:
 - a. receiving a broadcast stream on a selected channel, the broadcast stream comprising a plurality of programming media segments and at least one rich media segment associated with the alternative presentation data, the at least one rich media segment and the associated alternative presentation data being embedded within the plurality of programming media segments;
 - b. commencing presenting the at least one rich media segment on the selected channel; and
 - c. saving the alternative presentation data associated with the at least one rich media segment if presenting the at least one rich media segment on the selected channel is interrupted prior to completely presenting the at least one rich media segment on the selected channel; and
 - d. presenting the saved alternative presentation data associated with the rich media segment for a time period equivalent to an initial length of time for a presentation of the at least one rich media segment less a length of time that the at least one rich media segment has previously been presented.
2. (canceled).
3. The method of Claim 1, wherein presenting the alternative presentation data occurs simultaneously with presenting of at least one of the programming media segments of the broadcast stream.
4. The method of Claim 1, wherein the alternative presentation data is presented on the selected channel.
5. (canceled)

1 6. The method of Claim 1, further comprising storing tracking information for the presenting of
2 the alternative presentation data.

1 7. The method of Claim 6, further comprising transmitting the tracking information for the
2 presenting of the alternative presentation data for storage in a database.

1 8. The method of Claim 1, wherein the alternative presentation data is stored as metadata.

1 9. The method of Claim 1, further comprising storing tracking information for the presenting of
2 the at least one rich media segment.

1 10. The method of Claim 9, further comprising transmitting the tracking information for the
2 presenting of the at least one rich media segment for storage in a database.

1 11. The method of Claim 1, further comprising storing tracking information for the interruption
2 of presenting of the at least one rich media segment.

1 12. The method of Claim 11, further comprising transmitting the tracking information for the
2 interruption of presenting of the at least one rich media segment for storage in a database.

1 13. The method of Claim 1, wherein the alternative presentation data is the same as the at least
2 one rich media segment.

1 14. The method of Claim 1, wherein the alternative presentation data is different than the at least
2 one rich media segment.

1 15. The method of Claim 1, wherein the at least one rich media segment is an advertisement.

1 16. The method of Claim 1, wherein an expiration time is stored with the alternative presentation
2 data, and wherein the alternative presentation data is discarded if the alternative presentation
3 data is not presented prior to the expiration time.

1 17. The method of Claim 1, wherein the alternative presentation data is stored on a hard disk
2 drive.

1 18. The method of Claim 1, wherein presenting of the at least one rich media segment is
2 interrupted if a user changes from the selected channel to a different channel.

1 19. The method of Claim 1, wherein the at least one rich media segment comprises video data.

1 20. The method of Claim 1, wherein the at least one rich media segment comprises audio data.

1 21. A personal video recorder for saving alternative presentation data associated with a rich media
2 segment included in a broadcast stream when viewing of the rich media segment on a display
3 is interrupted, the personal video recorder comprising:

- 4 a. a viewer control interface configured to allow the viewer to interrupt the viewing of the
5 rich media segment;
- 6 b. a storage device for storing the alternative presentation data in response to the viewer
7 interrupting the viewing of the rich media segment; and
- 8 c. a controller responsive to the viewer control interface and connectable to the display, the
9 controller configured to receive signals indicating the interruption of the rich media
0 segment, to store the alternative presentation data associated with the rich media segment
1 on the storage device when a signal is received from the viewer control interface
2 indicating the interruption of the rich media segment and to present the saved alternative
3 presentation data that is associated with the rich media segment for a time period
4 equivalent to an initial length of time for a presentation of the at least one rich media
5 segment less a length of time that the at least one rich media segment has previously been
6 presented.

1 22. The personal video recorder of Claim 21, wherein the storage device is a hard disk drive.

1 23. The personal video recorder of Claim 21, wherein a channel change generates the signal
2 indicating the interruption of the rich media segment.

1 24. The personal video recorder of Claim 21, wherein a tuner change generates the signal
2 indicating the interruption of the rich media segment.

1 25. The personal video recorder of Claim 21, wherein the rich media segment is an
2 advertisement.

1 26. A digital audio receiver for saving alternative presentation data associated with a rich media
2 segment included in a broadcast stream when playing of the rich media segment on an audio
3 output device is interrupted, the digital audio receiver comprising:

4 a. a listener control interface configured to allow the listener to interrupt the playing of the
5 rich media segment;

6 b. a storage device for storing the alternative presentation data in response to the listener
7 interrupting the playing of the rich media segment; and

8 c. a controller responsive to the listener control interface and connectable to the audio
9 output device, the controller configured to receive signals indicating the interruption of
0 the rich media segment, to store the alternative rich media segment associated with the
1 rich media segment on the storage device when a signal is received from the listener
2 control interface indicating the interruption of the playing of the rich media segment and to
3 present the saved alternative presentation data that is associated with the rich media
4 segment for a time period equivalent to an initial length of time for a presentation of the
5 at least one rich media segment less a length of time that the at least one rich media
6 segment has previously been presented.

1 27. The digital audio receiver of Claim 26, wherein the storage device is a hard disk drive.

- 1 28. The digital audio receiver of Claim 26, wherein a channel change generates the signal
2 indicating the interruption of the rich media segment.
- 1 29. The digital audio receiver of Claim 26, wherein a tuner change generates the signal
2 indicating the interruption of the rich media segment.
- 1 30. The digital audio receiver of Claim 26, wherein the rich media segment is an advertisement.

1 EVIDENCE APPENDIX

- 2 There is no evidence submitted in support of this appeal.

RELATED PROCEEDINGS APPENDIX

There are no known appeals, interferences, or any other proceedings related to the instant appeal.